

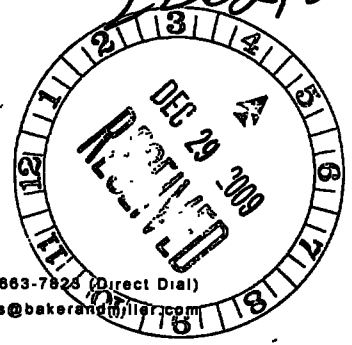
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WILLIAM A. MULLINS

December 29, 2009



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## **BY HAND DELIVERY**

Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington DC 20423-0001

ENTERED  
Office of Proceedings

DEC 29 2009

Part of  
Public Record

Re: STB Docket No. AB-1056X  
*Pioneer Industrial Railway Co. – Discontinuance of Service Exemption – Line In  
Peoria County, IL*

STB Docket No. AB-1066 (Sub-No. 1X)  
*Central Illinois Railroad Company – Discontinuance of Service Exemption – Line  
In Peoria County, IL*

## **Expedited Consideration Requested**

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a Joint Petition for Exemption by Pioneer Industrial Railway Co. ("PIRY") and Central Illinois Railroad Company ("CIRY") for PIRY's and CIRY's respective discontinuances of service over a line of railroad in the City of Peoria and the Village of Peoria Heights, Peoria County, IL.

Pursuant to 49 CFR 1002.2(f)(21)(iii), I have enclosed a filing fee check in the amount of \$6,400. Please acknowledge the receipt and filing of the enclosed joint discontinuance petition for exemption by time stamping the eleventh copy and returning it to the courier for delivery to me. If there are any questions about this matter, please contact me directly, either by telephone: (202) 663-7823 or by email: [wmullins@bakerandmiller.com](mailto:wmullins@bakerandmiller.com).

Sincerely,

**FILED**

DEC 29 2009

**SURFACE  
TRANSPORTATION BOARD**

**FEE RECEIVED**

Enclosures

cc: Daniel A. LaKemper

DEC 29 2009

**SURFACE  
TRANSPORTATION BOARD**

William A. Mullins

Counsel for Pioneer Industrial  
Railway Co.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB DOCKET NO. AB-1056**

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**PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**STB DOCKET NO. AB-1066 (Sub-No. 1X)**

---

**CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**ENTERED  
Office of Proceedings**

**DEC 29 2009**

**Part of  
Public Record**

**EXPEDITED CONSIDERATION REQUESTED**

**FILED**

**DEC 29 2009**

**SURFACE  
TRANSPORTATION BOARD**

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Attorney for Central Illinois  
Railroad Company

**FEE RECEIVED**

**DEC 29 2009**

**SURFACE  
TRANSPORTATION BOARD**

Dated: December 29, 2009

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB DOCKET NO. AB-1056X**

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**PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**STB DOCKET NO. AB-1066 (Sub-No. 1X)**

---

**CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**EXPEDITED CONSIDERATION REQUESTED**

Pursuant to 49 U.S.C. 10502 and the Rules applicable thereto at 49 CFR Parts 1121 and 1152, and the Special Rules at 49 CFR 1152.60, Pioneer Industrial Railway Co. ("PIRY") and Central Illinois Railroad Company ("CIRY") (collectively, PIRY and CIRY will be referred to herein as "Petitioners") jointly file this petition seeking expedited issuance of exemptions from the provisions of 49 U.S.C. 10903 for – (1) PIRY to discontinue its lease operations over all of an 8.29-mile rail line known as the Kellar Branch (also referred to herein as the "Line"), extending from approximately milepost 1.71 to milepost 10.0 in the City of Peoria and the Village of Peoria Heights, Peoria County, IL; and (2) for CIRY to discontinue its operations over a 5.72-mile portion of the Kellar Branch extending between milepost 2.78 and milepost 8.50. A map depicting the Line (including the middle section of the Line that is the subject of CIRY's request) is attached as Exhibit A.

Petitioners' respective discontinuance exemptions should be granted because they are limited in scope, involving only 8.29 miles of rail line in the case of PIRY and 5.72 miles of rail line in the case of CIRY, and because regulation is not necessary to protect shippers from an abuse of market power. As explained below, shippers that are located on the Line will continue to receive rail service despite Petitioners' requests for discontinuance authority. Moreover, the proposed discontinuance will facilitate the plans of the City of Peoria and the Village of Peoria Heights (collectively, the "Cities") to convert a portion of the Line to recreational purposes. For the reasons set forth herein, granting Petitioners' discontinuance exemption request is fully consistent with the National Rail Transportation Policy of 49 U.S.C. 10101.

As indicated, should Petitioners' request be granted, the Cities would seek to move forward with long-held plans to convert a portion of the Kellar Branch right-of-way (between milepost 2.78 and milepost 8.50) into a recreational trail. To more effectively advance the Cities' plans, Petitioners request expedited consideration of this joint petition, and also request herein an exemption from the financial assistance and the public use provisions of 49 U.S.C. 10904-10905 and related regulations to the extent that those provisions may pertain to the proposed discontinuances. The Cities have advised Petitioners that they will support Petitioners' joint discontinuance petition and the related exemption requests described immediately above.

In support of its petitions, Petitioners offer the following information:

#### **FACTUAL BACKGROUND**

PIRY and CIRY are Class III common carriers by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. Pursuant to separate agreements with the Cities, PIRY and CIRY currently both operate over the entire 8.29-mile Kellar Branch, extending between milepost 1.71 (at a connection with a line operated by the Tazewell & Peoria Railroad, Inc. – "TZPR") and milepost

10.0 (the western end of the Kellar Branch).<sup>1</sup> CIRY also possesses leasehold rights to operate over an additional 1.9 miles of rail line known as the Pioneer Industrial Lead (from milepost 71.5, to the end of track, a short distance west of University Avenue in the City of Peoria, IL) and 1,800 feet of track that the City of Peoria constructed to connect the western end of the Kellar Branch to the Pioneer Industrial Lead. (The Pioneer Industrial Lead and the 1,800 foot connecting track, both of which are owned by the City of Peoria, will be referred to collectively the “Western Connection.”) The Western Connection establishes a rail link between the northern portion of the Kellar Branch and a main line route of the Union Pacific Railroad Company (“UP”).

The Cities have long plotted to convert the Kellar Branch into a recreational trail. Recently, the Cities, CIRY, PIRY, and the remaining two shippers on the Kellar Branch – Carver Lumber Company (“Carver”) and O’Brien Steel Service Co. (“O’Brien”) – reached an accord pursuant to which PIRY will seek Board authority to discontinue its operations over the entire Kellar Branch pursuant to its lease agreement with the Cities,<sup>2</sup> and CIRY will seek Board

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<sup>1</sup> See Central Illinois Railroad Company—Operation Exemption—Rail Line of the City of Peoria and the Village of Peoria Heights in Peoria and Peoria Heights, Peoria County, IL, STB Finance Docket No. 34518 (STB served July 28, 2004); Pioneer Industrial Railway Co. – Lease and Operation Exemption – Peoria, Peoria Heights & Western Railroad, STB Finance Docket No. 33549 (STB served Feb. 20, 1998).

<sup>2</sup> PIRY will file concurrently with this discontinuance petition for exemption a notice of exemption under STB Finance Docket No. 35341 to acquire from CIRY local trackage rights over the northern and southern sections of the Kellar Branch that will remain once PIRY and CIRY discontinue their operations over the middle segment of the Kellar Branch. CIRY’s grant of these trackage rights will preserve PIRY’s ability to provide competitive common carrier service to Carver, O’Brien, and any other shippers that may choose to locate on the remaining portions of the Kellar Branch. PIRY intends for its future operations on the northern and southern segments of the Kellar Branch to be governed by the PIRY-CIRY trackage rights agreement, and, in light of that arrangement, has agreed to terminate its extant Kellar Branch lease with the Cities upon, but not before, PIRY’s consummation of the aforementioned local trackage rights arrangement with CIRY. PIRY intends through this joint petition to terminate its lease with the Cities over the entire Kellar Branch and CIRY intends to terminate its lease and

authority to discontinue its operations over the portion of the Kellar Branch between milepost 2.78 and milepost 8.50 (the “Middle Segment”), so that the Cities may move forward with plans to convert that portion of the Kellar Branch into a recreational trail. The Middle Segment of the Kellar Branch includes all of the trackage owned by the Village of Peoria Heights.

Following consummation of PIRY’s and CIRY’s respective discontinuances of service on the Kellar Branch and PIRY’s commencement of local trackage rights operations under STB Finance Docket No. 35341, Petitioners will continue to be able to provide service over the remaining portions of the Kellar Branch (the 1.07-mile “Southern Segment” between milepost 1.71 and milepost 2.78, and the 1.5-mile “Northern Segment” between milepost 8.50 and milepost 10.0 – collectively, the “Kellar Remnants”). The Southern Segment and Northern Segment are both owned by the City of Peoria. CIRY will serve as the primary operator of the Kellar Remnants pursuant to its lease agreement(s) with the City of Peoria. PIRY, on the other hand, will, as indicated, relinquish its leasehold interest in the entire Kellar Branch in exchange for CIRY’s grant of local trackage rights over the Kellar Remnants and the Western Connection pursuant to the Rail Operating and Trackage Rights Agreement (the “Trackage Rights Agreement”) between PIRY, CIRY and the City of Peoria, so that PIRY can provide common carrier service on the remaining portions of those lines.<sup>3</sup>

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operating rights over the middle segment of the Kellar Branch. CIRY will continue to serve the remaining portions of the Kellar Branch through its existing lease and operating authority. PIRY will obtain local trackage rights from CIRY to serve the northern and southern segments of the Kellar branch and the Western Connection.

<sup>3</sup> As part of the STB Finance Docket No. 35341 notice, CIRY will also convey local trackage rights to PIRY over the Western Connection. between milepost 71.5, to the end of track (a short distance west of University Avenue), and including the 1,800 foot connecting track linking the end of the Pioneer Industrial Lead with the Northern Segment of the Kellar Branch. Shippers located along the Northern Segment (at this time, Carver) will receive PIRY and CIRY service via the Western Connection, which provides for direct interchange with line-haul carrier UP. Shippers located along the Southern Segment (at this time, O’Brien) will obtain access to line

By its petition, Petitioners each seek an exemption to – (1) permit PIRY to terminate its lease arrangement with the Cities and to discontinue its common carrier operations provided pursuant to the terms of that lease; and (2) permit CIRY to terminate operation and its common carrier obligation over the Middle Segment. As stated above, the Line over which PIRY seeks to discontinue its lease operations (the entire Kellar Branch) extends from milepost 1.71 to milepost 10.0 in the City of Peoria and the Village of Peoria Heights, Peoria County, IL, a total distance of approximately 8.29 miles. The Middle Segment of the Kellar Branch over which CIRY seeks to discontinue operations extends from milepost 2.78 to milepost 8.50. (See Exhibit A showing the location of the proposed action.) The Kellar Branch is located within U.S. Postal Service Zip Codes 61603, 61604, 61614, 61615, and 61616. The proposed discontinuances are part of a larger plan to: (1) facilitate the possible conversion of the Middle Segment to a recreational trail; (2) re-structure the relationships among PIRY, CIRY, and the City of Peoria, so that PIRY and the City of Peoria will no longer have a direct landlord-tenant relationship pursuant to a lease agreement; and (3) permit PIRY to continue to provide competitive common carrier service to shippers that are located on, and may in the future locate on, the Kellar Remnants and the Western Connection pursuant to a trackage rights arrangement with CIRY.

PIRY's proposed discontinuance is linked to, and will be conditioned upon – (1) CIRY's discontinuance of operations over the Middle Segment, and (2) PIRY's acquisition of local trackage rights from CIRY over the Kellar Remnants and the Western Connection. Accordingly,

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haul service via Petitioners' connection with TZPR at the southern end of the Southern Segment. Both Carver and O'Brien have been consulted in the course of this proposed transaction and have been advised as to the operating changes that will result and both have provided letters (attached hereto) stating they do not object (Carver's consent contingent upon PIRY's obtaining trackage rights so that PIRY can serve Carver over the Western Connection).

Petitioners intend to consummate the proposed discontinuances as soon as STB processes will allow.

By virtue of (1) CIRY's retention of its leasehold rights and Board-issued operating authority over the Kellar Remnants (where the Kellar Branch's only active shippers – Carver and O'Brien – are located), and (2) PIRY's acquisition of local trackage rights over the Kellar Remnants and the Western Connection, existing shippers on the Kellar Branch will not lose access to rail service. In fact, as indicated, Petitioners understand that, as part of the multi-party accord that has resulted in the subject discontinuance petition, Carver and O'Brien do not object to Petitioners' discontinuance requests.

#### **PETITIONERS' REPRESENTATIVE**

PIRY is represented in this matter by William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037; telephone: (202) 663-7823; facsimile: (202) 663-7849. CIRY is represented by Michael R. Ascher, Toussaint & Carlson, Ltd., 2500 S. Highland Ave., Suite 360, Lombard, Illinois 60148; telephone: (630) 928-0040; facsimile: (630) 928-0045.

#### **THE EXEMPTION STANDARDS HAVE BEEN MET**

Under 49 U.S.C. 10903, service over a rail line cannot be discontinued without the prior approval of the Board. However, under 49 U.S.C. 10502, the Board must exempt a rail transaction from application of 10903 when it finds that – (1) regulation of the transaction is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power. The discontinuances of service proposed by Petitioners here clearly meet the statutory requirements of Section 10502.



**A. Regulation Is Not Necessary to Carry Out the Rail Transportation Policy**

The National Rail Transportation Policy contained in 49 U.S.C. 10101 obviates the need for detailed scrutiny by the Board under 49 U.S.C. 10903 in this instance. Granting Petitioners' exemption requests – rather than requiring Petitioners to absorb the costs and delays involved in submitting full-blown discontinuance applications for slightly more than eight miles of lightly-used track where the shippers will actually retain access to direct rail service – would promote a fair and expeditious regulatory decision-making process, would reduce regulatory barriers to exit, and would provide for the expeditious handling and resolution of proceedings required or permitted to be brought under this part. See 49 U.S.C. 10101(2), (7) and (15). Moreover, granting the subject discontinuance requests will, as part of a planned series of transactions, enable the local communities to convert a non-essential rail corridor to recreational purposes.

Finally, allowing Petitioners to discontinue service over the Middle Segment would promote the public health and safety by enabling the elimination of 6 at-grade crossings public crossings and facilitate the possible conversion of the Middle Segment to a trail. 49 U.S.C. 10101(8). Accordingly, it is not necessary to apply the Board's formal application procedures to Petitioners' proposed discontinuances in order to carry out the National Rail Transportation Policy. 49 U.S.C. 10502(a)(1). Indeed, the proposed discontinuances are fully consistent with that policy.

**B. The Proposed Discontinuances Are of Limited Scope**

The proposed discontinuances are of limited scope, involving approximately 8.29 and 5.72 miles of track, respectively, including in both cases all of the property that the Cities plan to convert to a recreational trail if the subject joint petition for exemption is granted. No Kellar Branch shipper will lose direct access to rail service as a result of Petitioners' requested

discontinuances as explained in detail above. For these reasons, the proposed action is clearly of limited scope.

C. Regulation of the Proposed Discontinuances Is Not Necessary to Protect Shippers from Market Power Abuse

Because the transaction is of limited scope, Petitioners do not need to show that regulation of the discontinuances is unnecessary to protect shippers from market abuse. Nonetheless, it is clear that use of the Board's formal discontinuance procedures is not necessary to protect shippers from a potential abuse of market power in this case. As explained throughout, the two remaining shippers on the Kellar Branch will not lose direct access to competitive rail service as a result of the proposed discontinuances, and, indeed, will not lose access to PIRY or CIRY service. Likewise, as the attached letters indicate, both shippers support the transactions as proposed. Accordingly, the subject discontinuances would not subject any shippers to market abuse.

### **PUBLIC INTEREST CONSIDERATIONS**

The proposed discontinuances are but a step in a multi-party arrangement among the local communities (the Cities), the involved rail carriers (PIRY and CIRY), and the Kellar Branch shippers (Carver and O'Brien) designed to facilitate the conversion of a large portion of a publicly-owned rail corridor (the Middle Segment of the Kellar Branch) to a recreational trail, while providing for the preservation of essential rail services to those shippers that remain on the Kellar Branch. The proposed discontinuances are critical to this arrangement, because Petitioners' respective discontinuances will enable the Cities to move forward with their long-held plans to convert the Middle Segment to a trail.

After the proposed discontinuances, Carver will receive service via the Northern Segment and Western Connection,<sup>4</sup> and O'Brien via the Southern Segment. PIRY's discontinuance will also permit PIRY to terminate its direct leasehold relationship with the City of Peoria on the Southern and Northern Segments, and to proceed to a direct trackage rights relationship with CIRY on those segments (and on the Western Connection) to ensure that PIRY common carrier rail service will continue. Accordingly, this multi-party arrangement strikes an acceptable balance between local interests and the interests of interstate commerce.

### **RELATED EXEMPTION REQUESTS**

As noted, the Cities intend to convert the Middle Segment into a recreational trail once Petitioners have obtained the requisite STB authority to discontinue common carrier operations over it. Were Petitioners to be denied their discontinuance exemption requests, the Cities' plans for the Middle Segment would be thwarted. In addition, continued rail service over the Middle Segment is not necessary for the remaining Kellar Branch shippers to receive direct, competitive rail service. Because continued rail service over the Middle Segment is not necessary and would frustrate the Cities' plans for the property, Petitioners' proposed discontinuances should be exempted from public use and financial assistance ("OFA") provisions of Sections 10904-10905 and the related regulations that might otherwise apply.<sup>5</sup> Exemption from the OFA subsidy

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<sup>4</sup> In the past, there have been serious questions concerning the adequacy of rail service via the Western Connection. The Cities, PIRY, CIRY, and Carver (the only current shipper on the Northern Segment) have, however, arrived upon an arrangement that all parties believe will provide adequate rail service to Carver via the Western Connection, and it is for this reason that Carver does not object to Petitioners' joint discontinuance petition.

<sup>5</sup> See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) ("CAGY-Greenwood") ("Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate"); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 ("NS-Mahoning") (STB served March 15,

provisions and (if applicable) the public use provisions is consistent with the public interest. The cessation of rail operations and the conversion of the Middle Segment into a recreational trail are both entirely in keeping with local land use plans and objectives.

Exemption from the public use and OFA provisions is entirely consistent with Board precedent. The Board has previously stated that these provisions will be waived where there is an overriding public purpose to be served by doing so. See 1411 Corporation – Abandonment Exemption – In Lancaster County, PA, STB Docket No. AB-581X, and Middletown & Hummelstown Railroad Company – Abandonment Exemption – In Lancaster County, PA, STB Docket No. AB-529X (STB served Sept. 6, 2001). Here, it is clear that the continuation of common carrier service over the Middle Section is not necessary for shippers on the Kellar Branch to enjoy direct, competitive service, and it is equally clear that such continuation of common carrier service on this line segment would defeat local interests in the Middle Segment property. Under the circumstances, the public interest solidly weights against an OFA. Accepting offers of financial assistance (or requests for public use conditions for that matter) would be inconsistent with these public purposes and benefits and would either forestall or thwart entirely the benefits of the proposed discontinuance.

### **MAPS AND EXHIBITS**

A map of the Kellar Branch which is the subject of this joint discontinuance petition for exemption is attached hereto as Exhibit A.

Petitioners also attach hereto as Exhibit B a draft Federal Register notice according to the form prescribed at 49 CFR 1152.60(c).

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2007) (same); Chillicothe-Brunswick Rail Maintenance Authority–Discontinuance Exemption–in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (“CBRA-Livingston”) (STB served Feb 23, 2007) (same).

Exhibit C will be copies of support letters that will be filed by Carver and O'Brien.

Exhibit D is the certification of compliance with 49 CFR 1105.12 (accompanied by proof of newspaper publication).

Based upon previous consultations with the Board's Section of Environmental Analysis in connection with other discontinuance of service proceedings, Petitioners understand that proceedings under which a rail carrier seeks authority to discontinue rail service over a particular line does not require the preparation or submission of Environmental and/or Historic Reports.<sup>6</sup> Accordingly, no Environmental and/or Historic Report has been prepared for this proceeding.

Petitioners also understand that, although it appears to pertain only to proceedings in which an Environmental and/or Historic Report is involved, the Board has nevertheless required newspaper publication conforming to the applicable requirements of 49 CFR 1105.12 in cases of rail service discontinuances. For that reason, a certification of compliance with 49 CFR 1105.12 (accompanied by proof of newspaper publication) is attached hereto as Exhibit D. The attached certification at Exhibit D also certifies that Petitioners have complied with the notice/service requirements of 1152.60(d).

In further compliance with the requirements of the second half of section 1152.60(d) (which may not be applicable to discontinuance proceedings), Petitioners state that, to the best of their knowledge and based on the information in their possession (as the non-owners of the Kellar Branch), the subject rail line does not contain any federally-granted rights-of-way; any documentation in petitioner's possession will be made available promptly to those requesting it.

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<sup>6</sup> See CAGY-Greenwood at 2 n.2 ("Because this is a discontinuance proceeding and not an abandonment, ... no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively"); NS-Mahoning at 2 n.2 (same); CBRA-Livingston at 2 n.3 (same).

## **LABOR PROTECTIVE CONDITIONS**

Petitioners are agreeable to the labor protective conditions imposed in discontinuance proceedings as prescribed in Oregon Short Line R. Co – Abandonment – Goshen, 360 I.C.C. 91 (1979) as those conditions may apply to PIRY's and CIRY's respective employees.

## **EXPEDITED CONSIDERATION**

Petitioners' joint discontinuance petition is linked to PIRY's concurrently filed notice of exemption to assume local trackage rights operations over the Western Connection, Northern Segment, and Southern Segment. In order, however, to ensure continuity in PIRY operations, PIRY will not consummate its discontinuance of service until such time as – (1) PIRY has acquired from CIRY local trackage rights over the Kellar Remnants and the Western Connection pursuant and subject to the Trackage Rights Agreement, and (2) CIRY has consummated its own discontinuance of operations on the Middle Segment. Ideally, therefore, PIRY would obtain STB authority for both transactions involving PIRY (discontinuance and trackage rights) as soon as possible. The class exemption process that PIRY has invoked in connection with its trackage rights transaction should be completed in 30 days, but Petitioners' individual petition for exemption process for discontinuance could take longer to complete. Petitioners therefore urge the Board to reduce, to the extent practicable, the lag time between the effective date of PIRY's trackage rights notice and the effective date of Petitioners' discontinuance exemptions.

Moreover, Petitioners understand that the Cities regard as time-sensitive the arrangements under which the Middle Segment will be converted to a recreational trail, and, for this reason, the Cities have urged Petitioners to act as expeditiously as possible in preparing and filing the subject joint petition and the related PIRY trackage rights notice. Petitioners have acted in accordance with the Cities' urgings, and Petitioners, in turn, would ask that the Board

give this joint petition prompt consideration, so that the involved parties can move forward with the next steps toward the development of the Cities' long-desired recreational trail.

### **CONCLUSION**

Petitioners seek an exemption from the provisions of 49 U.S.C. 10903 – (1) in the case of PIRY, to discontinue service over approximately 8.29 miles of rail line, and (2) in the case of CIRY, to discontinue approximately 5.72 miles of rail line located in the City of Peoria and the Village of Peoria Heights, Peoria County, IL. The requested exemptions are warranted because shippers do not object to the transaction and because they will continue to receive direct, competitive service via alternative routes once the discontinuances are consummated. Indeed, the shippers fully support the transactions. Moreover, the discontinuances of service would facilitate municipal development of a recreational trail, long a goal of the Cities.

For these reasons, application of the Board's formal discontinuance procedures is not needed here to serve the National Rail Transportation Policy. Instead, eliminating delays to the effectuation of Petitioners' proposed discontinuances of service over the Kellar Branch will facilitate the Board's efficient regulation of rail activity while avoiding unnecessary delays to community plans. Likewise, the proposed discontinuances are of limited scope, and no potential for abuse of railroad market power would result from the requested exemptions. In addition, exempting this proposal from public use and financial assistance provisions is also necessary because such exemptions will serve the overriding public purposes of fostering community land use planning and public safety and creating additional recreational land in the City of Peoria and the Village of Peoria Heights.

For the foregoing reasons, the Board should act expeditiously to grant the requested exemptions.

Respectfully submitted,



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Attorney for Central Illinois  
Railroad Company

December <sup>29</sup>, 2009



**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB DOCKET NO. AB-1056X**

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**PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**STB DOCKET NO. 1066 (Sub-No. 1X)**

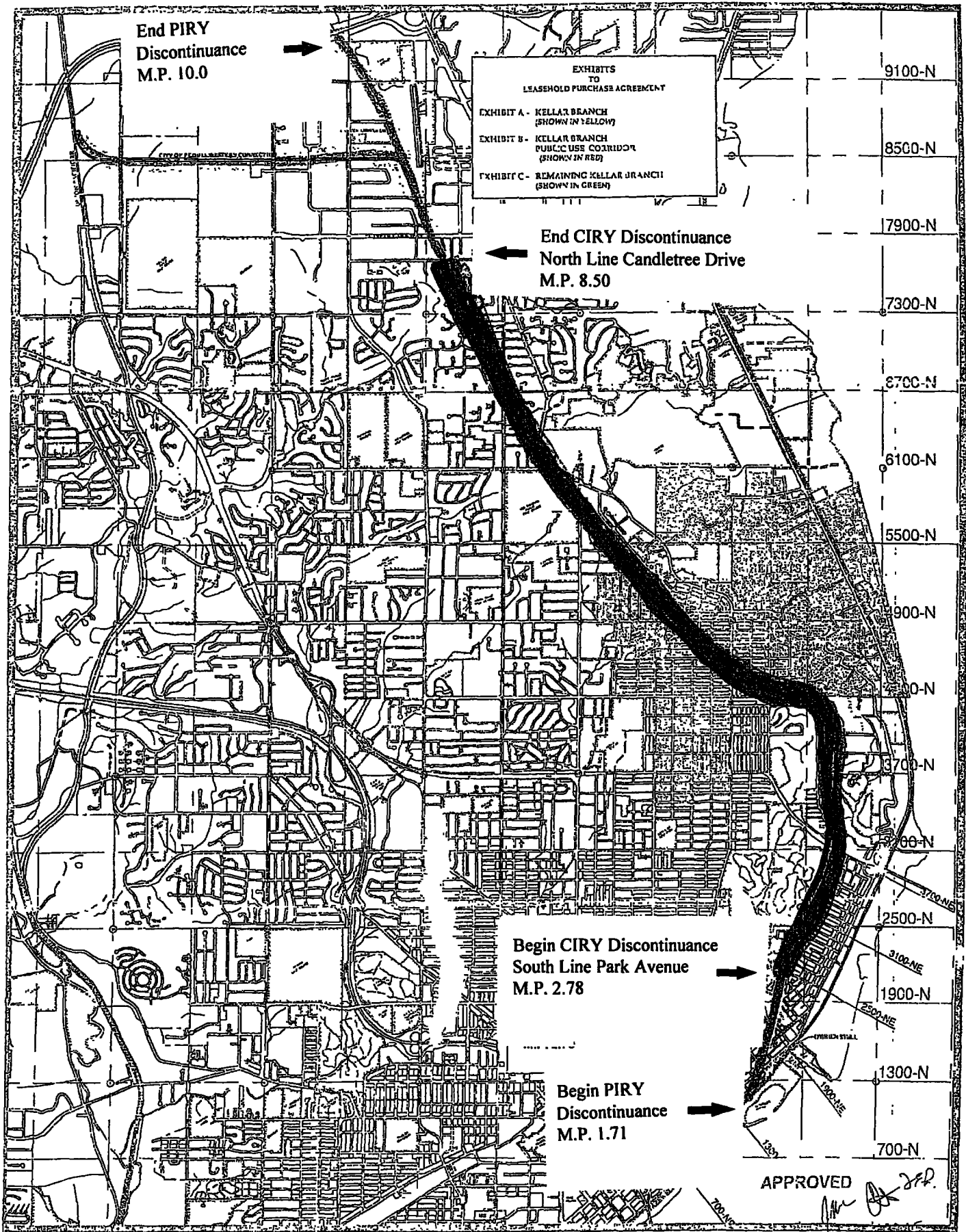
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**CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**EXHIBIT A**

**MAP**



**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB DOCKET NO. AB-1056X**

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**PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**STB DOCKET NO. 1066 (Sub-No. 1X)**

---

**CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

---

**EXHIBIT B**

**DRAFT FEDERAL REGISTER NOTICE**

**DRAFT FEDERAL REGISTER NOTICE**

STB DOCKET NO. AB-1056X

PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL

STB DOCKET NO. AB-1066 (Sub-No. 1X)

CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL

Notice of Joint Petition for Exemption to Discontinue Service

On December 29, 2009, Pioneer Industrial Railway Co. (PIRY) and Central Illinois Railroad Company (CIRY) (collectively, Petitioners) filed with the Surface Transportation Board, Washington, D.C. 20423, a joint petition for exemption for – (1) PIRY to discontinue service over an approximately 8.29-mile-long rail line referred to as the Kellar Branch, extending from milepost 1.71 (at a connection with a line owned and operated by the Tazewell & Peoria Railroad, Inc. – “TZPR”) to milepost 10.0 (the northern end of the Kellar Branch); and (2) CIRY to discontinue service over a 5.72-mile middle section of the Kellar Branch between milepost 2.78 and milepost 8.50. The line in question is located in, and is owned by, the City of Peoria and the Village of Peoria Heights in Peoria County, IL. The line traverses through United States Postal Service ZIP Codes 61603, 61604, 61614, 61615, and 61616. The line for which the discontinuance was filed includes the station names and (approximate mileposts) of the following stations: Peoria P&PU Switch (0.0), Averyville (0.2), Peoria Heights (4.0), Keller (5.2), and Pioneer Park (7.0). In connection with this joint petition, Petitioners also have requested to be exempted from the financial assistance and, to the extent applicable, public use provisions of the ICC Termination Act of 1995 and related statutes and regulations.

To the best of Petitioners’ knowledge, the line does not contain federally granted rights-of-way. Any documentation in the railroads’ possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding in the above-referenced dockets pursuant to 49 U.S.C. 10502(b). A final decision on the joint petition will be issued by \_\_\_\_\_, 2010.

If an exemption from the Board’s financial assistance provisions is not granted, any offer of financial assistance (OFA) will be due no later than 10 days after service of a decision

granting the petition for exemption. Each OFA must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

**[If applicable]** All interested persons should be aware that if an exemption from public use provisions is not granted, the line may be suitable for other public use and that any request for a public use condition will be due no later than 20 days after notice of the joint filing of the petitions for exemption is published in the Federal Register.

All filings in response to this notice must refer to STB Docket Nos. AB-1056X and AB-1066 (Sub-No. 1X), and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037; and (3) Michael R. Ascher, Toussaint & Carlson, Ltd., 2500 S. Highland Ave., Suite 360, Lombard, Illinois 60148; telephone: (630) 928-0040; facsimile: (630) 928-0045. Replies to the joint petition are due on or before \_\_\_\_\_, 2009.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0230 or refer to the discontinuance regulations at 49 CFR Part 1152. [Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-800-877-8339.]

Because the subject proceeding involves discontinuances of service over a line not owned by Petitioners, Petitioners have not filed an Environmental Report and/or an Historical Report, and, accordingly, the Board's Section of Environmental Analysis will not be preparing an environmental assessment.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB DOCKET NO. AB-1056X**

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**PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**STB DOCKET NO. 1066 (Sub-No. 1X)**

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**CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**EXHIBIT C**

**SHIPPER SUPPORT LETTERS TO BE FILED  
BY CARVER AND O'BRIEN**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**STB DOCKET NO. AB-1056X**

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**PIONEER INDUSTRIAL RAILWAY CO.  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**STB DOCKET NO. 1066 (Sub-No. 1X)**

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**CENTRAL ILLINOIS RAILROAD COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
LINE IN PEORIA COUNTY, IL**

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**EXHIBIT D**

**CERTIFICATIONS OF SERVICE/PUBLICATION**

## **Certificate of Service**

### **49 CFR 1152.60(d) – Notice**

I certify that, on behalf of Pioneer Industrial Railway Co. and Central Illinois Railroad Company (collectively, Petitioners), a copy of this individual petition for exemption to discontinue service over approximately 8.29 miles and 5.72 miles (respectively) of rail line located in Peoria County, IL was served on December 29, 2009, via first class mail, postage pre-paid, on the following:

### **Public Service Commission**

Mike Stead, Rail Safety Program Administrator  
Illinois Commerce Commission  
Transportation Bureau  
527 East Capitol Ave.  
Springfield, IL 62701  
(217) 782-7661

David Lazarides, Manager of Processing & Information  
Illinois Commerce Commission  
Transportation Bureau  
527 East Capitol Ave.  
Springfield, IL 62701  
(217) 782-7661  
(217) 782-2024 (Main Line)

### **Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program)**

David Dorfman  
SDDC TEA  
Railroads for National Defense  
709 Ward Dr., Bldg. 1990  
Scott AFB, IL 62225  
(618) 220-5741




**The National Park Service, Recreation Resources Assistance Division**

Charlie Stockman  
National Park Service  
Rivers & Trails Conservation Program  
1201 Eye Street, NW, 9th Floor (Org. Code 2220)  
Washington, D.C. 20005  
(202) 354-6900

**U.S. Department of Agriculture, Chief of the Forest Service**

Thomas L. Tidwell, Chief  
Forest Service  
U.S. Department of Agriculture  
Sidney R. Yates Federal Building  
201 14<sup>th</sup> Street SW  
Washington, DC 20024  
(202) 205-8439

December 29, 2009

  
William A. Mullins  
Attorney for Pioneer Industrial  
Railway Co.

**Certificate of Publication**

**49 CFR 1105.12 – Newspaper Notice**

I certify that a “Notice of Intent to Discontinue Rail Service” was published in the form prescribed by the Board for a Notice of Exemption. The notice was published one time on December 24, 2009 in the Peoria Star Journal, a newspaper of general circulation in Peoria County, where the Kellar Branch is located. (See attached proof of publication.)

December 29, 2009

A handwritten signature in black ink, appearing to read 'William A. Mullins', written over a horizontal line.

William A. Mullins  
Attorney for Pioneer Industrial  
Railway Co.

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 **NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE** STB Docket Nos AB-1056X and AB-1066 (Sub-No 1X) Pioneer Industrial Railway Company (PIRY) and Central Illinois Railroad Company (CIRY) (collectively, Petitioners) give notice that on or about December 29, 2009, they intend to file with the Surface Transportation Board, Washington, DC 20423, a joint petition of exemption under 49 CFR 1152 Subpart G Special Rules Applicable to for Petitions for Abandonments or Discontinuances of Service or Trackage Rights Filed Under the 49 U.S.C. 10502 Exemption Procedure permitting (1) PIRY to discontinue service on an approximately 8.29-mile line of railroad known as the Kellar Branch extending between milepost 1.71 (at a connection with a line operated by the Tazewell & Peoria Railroad, Inc. TZPR) and milepost 10.0 (the western end of the Kellar Branch), and (2) CIRY to discontinue service over an approximately 5.72-mile middle section of the Kellar Branch between milepost 2.78 and milepost 8.5. The subject rail line traverses through United States Postal Service ZIP Codes 61603, 61604, 61614, 61615, and 61616 in Peoria and Peoria Heights, Peoria County, IL. The proceedings will be docketed as STB Docket No. AB-1056X, and AB-1066 (Sub-No 1X). The proposed action entails overlapping discontinuances of rail common carrier service over the Kellar Branch. Neither PIRY nor CIRY, however, own the Kellar Branch over which Petitioners seek to discontinue service, and, therefore, neither PIRY nor CIRY can or will effectuate the full abandonment of any part of those lines. Accordingly, no environmental and/or historic reports (which are included with proceedings for the abandonment of a rail line) will be prepared as part of this proceeding. Petitioners have requested a waiver from the offer of financial assistance and public use procedures, however, if the waiver is not granted appropriate offers of financial assistance to subsidize continued rail service can be filed with the Board. An original and 10 copies of any pleading pertaining to offers of financial assistance or to the proposed discontinuance of service in general must be filed directly with the Board's Chief of the Section of Administration, Office of Proceedings 395 E Street, S.W., Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on Petitioners representatives: William A. Mullins, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., #300, Washington, DC 20037, phone 202-663-7823; fax 202-663-7849 (counsel for PIRY), and Michael R. Ascher, Toussaint & Carlson, Ltd., 2500 S. Highland Ave., Suite 360, Lombard, Illinois 60148; telephone: (630) 928-0040, facsimile: (630) 928-0045 (counsel for CIRY).

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